

IN THE MATTER OF:

Gulfeo Marine Maintenance

Superfund Site

Freeport, Texas

Dow Chemical Company

LDL Coastal Limited L.P.

Parker Drilling Offshore Corporation

Sequa Corporation

Jack Palmer

Ron Hudson

RESPONDENTS

AMENDED

**UNILATERAL ADMINISTRATIVE
ORDER FOR REMEDIAL
INVESTIGATION/FEASIBILITY
STUDY**

U.S. EPA REGION 6
CERCLA Docket No. 06-05-05A

Proceeding under Sections 106 (a)
of the Comprehensive Environmental
Response, Compensation, and Liability Act
as amended, 42 U.S.C. § 9606(a).

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REGIONAL HEARING CLERK
EPA REGION 6

FILED

**UNILATERAL ADMINISTRATIVE ORDER
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

I. INTRODUCTION

1. This Administrative Order ("Order") is being issued by the United States Environmental Protection Agency ("EPA") to the above-captioned Respondents (hereinafter, the "Respondents"). The Order concerns the preparation and performance of a Remedial Investigation and Feasibility Study (hereinafter, the "RI/FS") concerning the Gulfeo Marine Maintenance Superfund Site (hereinafter, the "Site") in Freeport, Brazoria County, Texas.

II. JURISDICTION

2. This Order is issued to Respondents by EPA under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580 (52 Fed. Reg. 2923, January 23, 1987), and was further delegated to EPA Regional Administrators on September 13, 1987 by EPA Delegation Nos. 14-14-A and

14-14-B, and to the Director, Superfund Division, EPA Region 6, by EPA Delegations R6-14-14-A and R6-14-14-B.

III. PARTIES BOUND

3. This Order shall apply to and be binding upon the Respondents and their successors and assigns. Respondents are jointly and severally responsible for carrying out all actions required of them under this Order. No change in the ownership or corporate status of any Respondent or of its facilities or the Site shall alter any Respondent's responsibilities under this Order.
4. Respondents shall provide a copy of this Order to any subsequent owners or successors before a controlling interest in ownership rights or stock or assets in a corporation are transferred. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants which are retained to conduct any work performed under this Order, within fourteen (14) days after the EFFECTIVE DATE of this Order or the date of retaining their services, whichever is later. Respondents shall condition any such contracts upon satisfactory compliance with this Order. Notwithstanding the terms of any contract, Respondents are responsible for compliance with this Order and for ensuring that their employees, contractors, consultants, subcontractors and agents comply with this Order.
5. The activities conducted under this Order are subject to approval by EPA and shall provide all appropriate information for the RI/FS and for a Record of Decision that is consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300. The activities conducted by or on behalf of Respondents under this Order shall be conducted in compliance with all applicable EPA guidance, policies, and procedures and any amendments thereto.

IV. FINDINGS OF FACT

6. The Site, as indicated in Attachment A, is an inactive barge cleaning facility where waste disposal occurred. The Site consists of approximately 40 acres located one mile east of Highway 332 at 906 Marlin Avenue in Freeport, Brazoria County, Texas. The geographic coordinates are 28°58'07" north latitude, and 95°17'26" west longitude.
7. The Site borders 2170 feet of the north shore of the Intracoastal Waterway between Oyster Creek on the east and the Old Brazos River Channel and the Dow Barge Canal on the west. The Site is within an area of 100-year coastal flood with velocity (wave action). The southern part of the Site, south of Marlin Avenue, drains toward the south where it enters into the Intracoastal Waterway. Drainage from the Site area north of Marlin Avenue is to the northeast into adjacent wetlands. These wetlands extend approximately 0.48 miles to Oyster Creek.

8. A residential development exists approximately 500 feet southwest of the Site on the Intracoastal Waterway. According to U.S. Census data from 2000, there are 56 housing units and 61 residents within one-half mile of the Site. The nearest industrial facility to the Site, Offshore Services, Inc., is located adjacent to the Site on the east. This facility is a docking and staging area for supplying fuel, drilling mud, chemical additives, and cement to offshore drilling rigs.
9. According to the National Wetlands Inventory map for the Freeport Quadrangle, the wetlands north of the Site are estuarine, intertidal, emergent, persistent, and irregularly flooded.
10. The Site was operated by Gulfco Marine Maintenance, Inc., from 1971 through 1979. Fish Engineering and Construction, Inc., owned the Site from 1979 until 1989, when the majority of the Site, including Lots 21 through 25, and Lots 55, 57, and 58 (approximately 35 acres), was sold to Hercules Offshore Corporation (later Hercules Marine Services Corporation). LDL Coastal Limited LP acquired Hercules Marine Services' interest in the Site in a bankruptcy sale in 1999. The remaining lot, Lot 56 (approximately five acres), was sold to Jack Palmer and Ron Hudson in 1999.
11. The primary Site operations consisted of draining, cleaning, servicing, and repair of various chemical barges. The barge repair work included welding, sandblasting, and painting. The Site also included three surface impoundments, which were earthen pits with natural clay liners located on Lot 56. Beginning in 1971, the impoundments were used for storage of waste oils, caustics, various organic chemicals, and waste wash waters generated during barge cleaning activities. The impoundments were deactivated in October 1981, and later operations used floating barges and above ground storage tanks to store the barge wash waters.
12. According to a letter from Fish Engineering & Construction, Inc., to the Texas Air Control Board, dated April 14, 1982, between June 1980 and August 1981, the barge cargoes for washing at the Site included: fuel oil, crude oil, diesel, oil residues, gas oil, benzene, xylene, toluene, cyclo-hexane, cumene, ethyl benzene, styrene, hydrochloric acid, glycols, methanol, butanol, chloroform, perchloroethylene, vinyl chloride, acetone, methyl ethyl ketone, and vinyl acetate among other barge cargoes.
13. According to the "Site Inspection Report", dated July 15, 1980, prepared by EPA, discharges occurred from the waste impoundments in July 1974 and August 1979.
14. According to the "Screening Site Inspection Report", dated July 2000 ("SSI Report"), prepared by the Texas Natural Resource Conservation Commission (TNRCC), and the "HRS Documentation Record, Gulfco Marine Maintenance Site", dated February 2002 ("HRS Report"), prepared by TNRCC, the site included two barge slips, a dry dock area,

and various above ground tanks used for storage of product drained from the barges prior to cleaning.

15. According to the "Site Characterization Report", dated June 1999, prepared by LT Environmental, Inc. ("LTE"), for LDL Coastal, Inc. ("LTE Report"), the tank farm area at the Site originally consisted of 12 product above ground storage tanks and four wash water above ground storage tanks. The tank farm area had no levees or containment dikes in 1989 during the EPA Site visit. The tank farm currently is contained in a concrete berm. LTE conducted sampling of the tanks in March 1999 and identified the following hazardous substances: acetone; benzene; 2-butanone, chloroform; 1,1-dichloroethane; 1,2-dichloroethane; carbon tetrachloride; ethylbenzene; 4-methyl-2-pentanone; methylene chloride; naphthalene; styrene; tetrachloroethylene; toluene; 1,1,1-trichloroethane; trichloroethylene; Arochlor 1254; and xylenes.
16. According to the SSI Report, in January 2000, the Texas Natural Resource Conservation Commission (now known as the Texas Commission on Environmental Quality) conducted sampling activities at the Site. The sampling results documented hazardous substances above background concentrations and above the sample quantitation limit in the soil at the Site as follows:

Hazardous Substance	Maximum Soil Concentration, mg/kg	
	Site	Background
methylene chloride	0.025J	0.006
phenanthrene	2.5	ND (0.44)
fluoranthene	5.1	ND (0.44)
pyrene	4.4	ND (0.44)
benzo(a)anthracene	2.4	ND (0.44)
benzo(b)fluoranthene	2.7	ND (0.44)
benzo(k)fluoranthene	2.5	ND (0.44)
benzo(a)pyrene	2.6	ND (0.44)
benzo(g,h,i)perylene	2.4J	ND (0.44)
chrysene	2.8	ND (0.44)
ideno(1,2,3-cd)pyrene	2.2	ND (0.44)
alpha-chlordane	0.0084 ^	ND (0.0022)

Hazardous Substance	Maximum Soil Concentration, mg/kg	
	Site	Background
gamma-chlordane	0.020	ND (0.0022)
dieldrin	0.015J	ND (0.0043)
4,4'-DDT	0.015J	ND (0.0043)
endrin aldehyde	0.018J^	ND (0.0043)
Arochlor-1254 (PCB)	0.150	ND (0.043)
lead	221^	14.3
zinc	1150	50.1

ND = Not detected at the reported sample quantitation limit (SQL)

J, J^, Jv = sample results are estimated and/or biased high/low due to a quality control problem

^ = High biased. Actual concentration may be lower than the concentration reported.

17. According to the SSI Report, in January 2000, the Texas Natural Resource Conservation Commission (now known as the Texas Commission on Environmental Quality) conducted sampling activities in the Intracoastal Waterway. The sampling results documented releases of hazardous substances from the Site to the sediment in the Intracoastal Waterway as follows:

Hazardous Substance	Maximum Sediment Concentration, mg/kg	
	Adjacent to Site	Background
phenanthrene	1.2	ND (0.490)
fluoranthene	2.0	ND (0.490)
pyrene	2.0	ND (0.490)
bis(2-ethylhexyl)phthalate	1.2	0.150
gamma-chlordane	0.0055	ND (0.0026)
heptachlor-epoxide	0.0038	ND (0.0026)

Hazardous Substance	Maximum Sediment Concentration, mg/kg	
	Adjacent to Site	Background
lead	46.8	12.6
zinc	314	54.4

ND = Not detected at the reported sample quantitation limit (SQL)

18. According to the HRS Report, the Intracoastal Waterway is considered a fishery. Photographs taken during the January 2000 SSI sampling event documented the Intracoastal Waterway as being a fishery.
19. According to the HRS Report, a hazardous substance with a bio-accumulation potential factor (measure that reflects the tendency for a substance to accumulate in the tissue of an aquatic organism) of 500 or greater that is present in the sediment of a fishery is a potential threat to contamination of the human food chain. The hazardous substances present in Intracoastal Waterway sediment that are identified as releases from the Site having bio-accumulation potential factors greater than 500 are as follows:

Hazardous Substance	Bio-Accumulation Potential Factor
fluoranthene	5,000
pyrene	5,000
bis(2-ethylhexyl)phthalate	50,000
gamma-chlordane	50,000
lead	5,000
zinc	50,000

20. According to the HRS Report, in January 2001, the Texas Natural Resource Conservation Commission (now known as the Texas Commission on Environmental Quality) conducted sampling of the shallow ground water at the Site. The ground water samples were collected from temporary monitor wells screened between depths of 10 feet and 24 feet. The sampling results documented releases of hazardous substances from the Site to the ground water as follows:

Hazardous Substance	Maximum Ground Water Concentration, mg/L	
	Site	Background
benzene	18LJ	ND (0.010)
carbon disulfide	0.048J	ND (0.010)
chloroform	1.2LJ	ND (0.010)
1,1-dichloroethane	12	ND (0.010)
1,2-dichloroethane	2,800Jv	ND (0.010)
1,1-dichloroethene	30	ND (0.010)
1,2-dichloropropane	2.1J	ND (0.010)
ethyl benzene	0.040	ND (0.010)
methylene chloride	750Jv	ND (0.010)
4-methyl-2-pentanone	0.30J	ND (0.010)
tetrachloroethene	29LJ	ND (0.010)
toluene	0.78LJ	ND (0.010)
1,1,1-trichloroethane	93	ND (0.010)
1,1,2-trichloroethane	0.046	ND (0.010)
trichloroethene	92	ND (0.010)
vinyl chloride	17	ND (0.010)
xylene	0.130	ND (0.010)
acetophenone	0.120	ND (0.010)
phenol	0.051	ND (0.010)
naphthalene	0.230	ND (0.010)
aldrin	0.000099J	ND (0.00005)
alpha-BHC	0.00048J	ND (0.00005)
beta-BHC	0.00075J	ND (0.00005)
delta-BHC	0.000092J	ND (0.00005)

Hazardous Substance	Maximum Ground Water Concentration, mg/L	
	Site	Background
gamma-BHC (lindane)	0.00059J	ND (0.00005)
endrin	0.00032J	ND (0.0001)
endosulfan II	0.00042J	ND (0.0001)
4,4'-DDT	0.0014J	ND (0.0001)
arsenic	0.0777	0.00102
cobalt	0.0669	0.0174
copper	0.273	0.0364
lead	0.0947	0.0244
manganese	14.1	2.81
nickel	0.217	0.0468
vanadium	0.196	0.0649

ND = Not detected at the reported sample quantitation limit (SQL)

J, J[^], J_v = sample results are estimated and/or biased high/low due to a quality control problem.

L = Reported concentration is below the CRQL.

21. According to the "Screening Site Inspection of Fish Engineering and Construction, Inc." Report, undated, prepared by Ecology and Environment, Inc., for EPA, ground water at the Site flows to the southeast. The closest water supply well (Well BH8106-303) was on the west adjacent property to the Site, and was used for a public marina until 1984. The well was 199 feet deep and was screened from a depth of 188 feet to 198 feet.
22. According to the memorandum "Environmental Priority Initiative (EPI) Preliminary Assessment of Fish Engineering Construction, Inc.", dated August 2, 1989, from Jairo Guevara to Ed Sierra, the City of Freeport was previously supplied by ground water from seven wells at depths of 200 feet. These wells were used until 1989 when they were replaced by surface water reservoirs, and subsequently the wells were used as a backup system.

23. The hazardous substances identified above, under certain conditions of dose, duration, or extent of exposure, may produce adverse health and environmental effects. A number of these hazardous substances have been identified as probable carcinogens.
24. The Site was proposed for listing on the National Priorities List ("NPL") on September 5, 2002 (67 FR 56794), and was placed on the NPL effective May 30, 2003, in a final rulemaking published on April 30, 2003 (68 FR 23077).
25. Respondent LDL Coastal Limited L.P. is a domestic limited partnership incorporated in the state of Texas. LDL Coastal Limited L.P. is the current owner of certain parts of the Site, including Track numbers 21, 21A, 21B, 22, 23, 24, 25, 55, 57, and 58 of Subdivision Number 8, Brazos Coast Investment Company Subdivision.
26. Respondent Ron Hudson, as an individual, is the current owner of Lot 56.
27. Respondent Jack Palmer, as an individual, is the current owner of Lot 56.
28. Respondent Parker Drilling Offshore Corporation is a corporation incorporated in the state of Delaware. Parker Drilling Offshore Corporation is the successor to Hercules Offshore Corporation, who is a past owner of the Site.
29. Respondent Sequa Corporation is a corporation incorporated in the state of Delaware. Sequa Corporation is the parent company to Chromalloy American Corporation, who is a past owner of the Site.
30. Respondent Dow Chemical Company is a corporation incorporated in the state of Delaware. Dow Chemical Company arranged for disposal or treatment of hazardous substances, which were owned or possessed by said company, at the Site.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

31. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
32. Each of the Respondents is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21). Respondent LDL Coastal Limited L.P. is the current owner of certain parts of the Site, including Track numbers 21, 21A, 21B, 22, 23, 24, 25, 55, 57, and 58 of Subdivision Number 8, Brazos Coast Investment Company Subdivision formerly utilized for cleaning of barges containing hazardous substances and is thus a responsible party within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). Respondent Ron Hudson is the current owner of certain parts of the Site, specifically Lot 56 of Subdivision Number 8, Brazos Coast Investment Company Subdivision, formerly utilized for cleaning barges containing hazardous substances and is

thus a responsible party within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). Respondent Jack Palmer is the current owner of certain parts of the Site, specifically Lot 56 of Subdivision Number 8, Brazos Coast Investment Company Subdivision, formerly utilized for cleaning barges containing hazardous substances and is thus a responsible party within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). Respondent Parker Drilling Offshore Corporation is the successor to Hercules Offshore Corporation, who is a past owner of the Site at the time of disposal of hazardous substances at the Site and is thus a responsible party within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2). Respondent Sequa Corporation is the parent company to Chromalloy American Corporation, who is a past owner of the Site at the time of disposal of hazardous substances at the Site and is thus a responsible party within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2). Respondent Dow Chemical Company arranged for the disposal or treatment of materials containing hazardous substances which came to be disposed of at the Site, and is accordingly a responsible party within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3).

33. Among the contaminants found at the Site are contaminants, as identified in Section IV of this Order, which are "hazardous substances" as defined by Section 101 (14) of CERCLA, 42 U.S.C. §9601 (14).
34. The conditions described in Section IV of this Order, constitute an actual "release" of hazardous substances from the facility, as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). In addition, there is a threat of further releases of hazardous substances at and from the Site.
35. The actual or threatened release of one or more hazardous substances from the Site presents an imminent and substantial endangerment to the public health or welfare or the environment.
35. The Remedial Investigation/ Feasibility Study ("RI/FS") required by this Order are necessary to abate an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances at or from the Site, and are not inconsistent with the NCP or CERCLA.
36. EPA gave Respondents, excluding Parker Drilling Offshore Corporation, an opportunity to enter into an Administrative Order on Consent ("AOC") covering the performance of an RI/FS of the Site. However, EPA and Respondents were not able to reach agreement on the terms of such an AOC.
37. In addition, EPA gave Respondents, excluding Parker Drilling Offshore Corporation, an opportunity to enter into an AOC under appropriate state authority covering the entire

cleanup of the Gulfco Site. However, EPA and Respondents were not able to reach agreement on the terms of such an AOC.

38. An UAO for RI/FS was issued on July 15, 2005. The UAO was amended to postpone the effective date to July 29, 2005. Respondents, excluding Parker Drilling Offshore Corporation, have been conducting the RI/FS under an UAO.
39. During the implementation of the RI/FS, the EPA ascertained the names of an additional party, Parker Drilling Offshore Corporation, potentially responsible for the cleanup of the Gulfco Site. This amended UAO adds this additional party.

VI. NOTICE

40. By providing a copy of this Order to the Texas Commission on Environmental Quality ("TCEQ"), EPA is notifying the State of Texas (the "State") that this Order is being issued and that EPA is the lead agency for coordinating, overseeing, and enforcing the response action required by this Order.

VII. DETERMINATION

41. Based on the FINDINGS OF FACT and CONCLUSIONS OF LAW set forth above and the entirety of the administrative record, the Superfund Division Director has determined that the release or threatened release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.

VIII. ORDER

42. Based on the foregoing, Respondents are hereby ordered, jointly and severally, to comply with the following provisions, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

IX. DEFINITIONS

Unless otherwise expressly provided herein, terms used in this Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Order or in the documents attached to this Order or incorporated by reference into this Order, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.*

b. "Day" shall mean a calendar day unless otherwise specified. In computing any period of time under this Order, in the event that a submission would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next business day.

c. "EPA" shall mean the United States Environmental Protection Agency.

d. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

e. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.

f. "Order" shall mean this Unilateral Administrative Order and all appendices attached hereto. In the event of conflict between this Order and any attachments, this Order shall control.

g. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral.

h. "Parties" shall mean EPA and Respondent.

i. "Performance Standards" shall mean those substantive requirements, criteria or limitations, identified in the Statement of Work, that the Work required by this Order must attain and maintain.

j. "RCRA" shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.* (also known as the Resource Conservation and Recovery Act).

k. "Respondents", are parties listed in Attachment A.

l. "Section" shall mean a portion of this Order identified by a roman numeral and includes one or more paragraphs.

m. "State" shall mean the State of Texas.

n. "Statement of Work" or "SOW" shall mean the statement of work for implementation as set forth in Attachment C to this Order. The Statement of Work is incorporated into this Order and is an enforceable part of this Order.

o. "Site" shall mean the Gulfco Marine Maintenance Superfund Site located in Freeport, Brazoria County, Texas, encompassing approximately 40 acres on the north shore of the Intracoastal Waterway and depicted generally on the map attached as Appendix A.

p. "TCEQ" shall mean the Texas Commission on Environmental Quality and any successor departments or agencies of the State of Texas.

q. "United States" shall mean the United States of America.

t. "Work" shall mean all activities Respondent is required to perform under this Order, including any activities described in the SOW.

X. NOTICE OF INTENT TO COMPLY

43. Respondents shall provide, not later than fourteen (14) days after the EFFECTIVE DATE of this Order, written notice to EPA stating whether they will comply with the terms of this Order. If Respondents do not unequivocally commit to perform the Work as provided by this Order, they shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondents' written notice shall describe, using facts that exist on or prior to the EFFECTIVE DATE of this Order, any "sufficient cause" defenses asserted by Respondents under Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). The absence of a response by EPA to the notice required by this paragraph shall not be deemed to be an acceptance of Respondents' assertions.

XI. WORK TO BE PERFORMED

42. All Work performed under this Order shall be under the direction and supervision of qualified personnel. Within thirty (30) calendar days of the EFFECTIVE DATE of this Order, and before the Work outlined below begins, Respondents shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review, for verification that such persons meet minimum technical

background and experience requirements. EPA will review Respondent's selection of a project manager according to the terms of Section XI Paragraph 65 of this Order. If EPA disapproves of the selection of the project manager, Respondent shall submit to EPA within five (5) days after receipt of EPA's disapproval of the project manager previously selected, a list of project managers, including primary support entities and staff, that would be acceptable to Respondent. EPA will thereafter provide written notice to Respondent of the names of the project managers that are acceptable to EPA. Respondent may then select any approved project manager from that list and shall notify EPA of the name of the project manager selected within twenty-one (21) days of EPA's designation of approved project managers. During the course of the RI/FS, Respondents shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

43. Respondents shall conduct the RI/FS in accordance with the provisions of this Order, the attached SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by EPA. The Remedial Investigation ("RI") shall consist of collecting data to characterize site conditions, determining the nature and extent of the contamination at or from the Site, assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study ("FS") shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the Site. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. In evaluating the alternatives, Respondents shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e). Upon request by EPA, Respondents shall submit in electronic form all portions of any plan, report or other deliverable Respondents are required to submit pursuant to provisions of this Order. All work performed under this Order shall be in accordance with the schedules herein, and in full accordance with the schedules, standards, specifications, and other requirements of the Work Plans, as initially approved by EPA, and as they may be amended or modified by EPA. For purposes of this Order, day means calendar day unless otherwise noted in this Order.

44. EPA reserves the right to comment on, modify and direct changes for all deliverables. Respondents must fully correct all deficiencies and incorporate and integrate all information and comments supplied by EPA either in subsequent or resubmitted deliverables.
45. Respondents shall not proceed further with any subsequent activities or tasks until receiving EPA approval for the RI/FS Work Plans. While awaiting EPA approval of these deliverables, Respondents shall proceed with all other tasks and activities which may be conducted independently of these deliverables, in accordance with the schedule set forth in this Order.
46. For all remaining deliverables not enumerated above in the previous paragraph, Respondents shall proceed with all subsequent tasks, activities and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop Respondents from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.
47. In the event that Respondents amend or revise a report, plan or other submittal upon receipt of EPA comments, if EPA in its discretion subsequently disapproves of the revised submittal or any portion thereof, or if subsequent submittals do not fully reflect EPA's directions for changes related to performance of the RI/FS, EPA retains the right, in its sole discretion, to seek statutory penalties, perform its own studies, complete the RI/FS (or any portion of the RI/FS) under CERCLA and the NCP, and seek reimbursement from the Respondents and/or other potentially responsible parties for its costs; and/or seek any other appropriate relief.
48. In the event that EPA takes over some of the tasks, but not the preparation of the RI and FS reports, Respondents shall incorporate and integrate information supplied by EPA into the final RI and FS reports.
49. The failure of EPA to either expressly approve, disapprove, or comment upon Respondents' submissions within a specified time period(s) shall not be construed as approval by EPA.
50. Respondents shall assure that all work performed, samples taken and analyses conducted conform to the requirements of the RI/FS Work Plans, the EPA-approved QAPP and guidances identified therein. Respondents shall assure that field personnel used by Respondents are properly trained in the use of field equipment and in chain of custody procedures.
51. Respondents shall, prior to any off-Site shipment of hazardous substances from the Site to an out-of-State waste management facility, provide written notification to the appropriate

state environmental official in the receiving state and to EPA's Project Coordinator of such shipment of hazardous substances. However, the notification of shipments shall not apply to any such off-Site shipments when the total volume of such shipments will not exceed 10 cubic yards.

a. The notification shall be in writing, and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation. Respondents shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state to which any hazardous substances from the Site will be shipped will be determined by Respondents following the award of the contract for the RI/FS. Respondents shall provide all relevant information, including information under the categories noted in subparagraph a., above, on the off-Site shipments, as soon as practical after the award of the contract and before the hazardous substances are actually shipped.

XII. NOTIFICATION AND REPORTING REQUIREMENTS

52. All reports and other documents submitted by Respondents to EPA (other than the monthly progress reports referred to below) which purport to document Respondents' compliance with the terms of this Order shall be signed by a responsible corporate official of one or more of the Respondents; or by the Project Coordinator who has been delegated this responsibility by the Respondents, whose qualifications have been found by EPA to be acceptable pursuant to paragraph 65 of this Order, and who will certify that he/she has been fully authorized by Respondents to submit such a document and to legally bind all Respondents thereto. Notwithstanding such a delegation of responsibility, Respondents shall remain liable for the proper performance of the work required by this Order. For purposes of this Order, a responsible corporate official is an official who is in charge of a principal business function.
53. Until the termination of this Order, Respondents shall prepare and provide EPA with written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Order during the previous month; (2) include all results of sampling, tests, modeling and all other data (including raw data) received or generated by or on behalf of Respondents during the previous month in the implementation of the work required hereunder; (3) describe all actions, data and plans which are scheduled for the next two months and provide other information relating to the progress of work as is customary in the industry; (4) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future

schedule for completion of the work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays. These progress reports shall be submitted to EPA by Respondents by the fifteenth (15) day of every month following the EFFECTIVE DATE of this Order.

54. All work plans, reports, notices and other documents required to be submitted to EPA under this Order shall be sent by certified mail, return receipt requested, by overnight delivery or by courier to the following addressees:

Mr. M. Gary Miller, Remedial Project Manager
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-AP)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Ms. Barbara A. Nann, Assistant Regional Counsel
United States Environmental Protection Agency, Region 6
Superfund Division (6RC-S)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

55. Respondents shall give EPA at least fourteen (14) days advanced notice of all field work or field activities to be performed by Respondents pursuant to this Order.

XIII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

56. Upon the occurrence of any event during performance of the work required hereunder which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, Respondents shall immediately orally notify the EPA Project Coordinator (or, in the event of the unavailability of the EPA Project Coordinator, the Branch Chief of the Response and Prevention Branch of EPA Region VI), in addition to the reporting required by Section 103. Within fourteen (14) days of the onset of such an event, Respondents shall also furnish EPA with a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. The reporting requirements of this paragraph are in addition to, not in lieu of, reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.
57. In the event of any action or occurrence during Respondents' performance of the requirements of this Order which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding

paragraph. Respondents shall take such action in accordance with applicable provisions of this Order including, but not limited to, the Health and Safety Plan. In the event that EPA determines that (a) the activities performed pursuant to this Order, (b) significant changes in conditions at the Site, or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Order or to take other and further actions reasonably necessary to abate the threat.

58. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XIV. MODIFICATION OF THE WORK PLANS

59. If at any time during the RI/FS process, Respondents identify a need for additional data, a memorandum documenting the need for additional data shall be submitted to the EPA Project Coordinator within twenty (20) days of identification. EPA in its discretion will determine whether the additional data will be collected by Respondents and whether it will be incorporated into reports and deliverables.
60. In addition to the authorities in the NCP, in the event that EPA determines that unanticipated or changed circumstances at the Site, or conditions posing an immediate threat to human health or welfare or the environment, warrant changes in the RI/FS Work Plans, EPA will modify or amend, or direct Respondents to modify or amend, the RI/FS Work Plans accordingly. Respondents shall implement the RI/FS Work Plans as modified or amended.
61. EPA may determine that in addition to tasks defined in the approved RI/FS Work Plans, other additional work may be necessary to accomplish the objectives of the RI/FS. EPA may require, pursuant to this Order, that the Respondents perform these response actions in addition to those required by the RI/FS Work Plans, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS. Respondents shall implement the additional tasks which EPA determines are necessary. The additional work shall be completed according to the standards, specifications and schedule set forth or approved by EPA in written modifications to the RI/FS Work Plans or written Work Plan supplements. EPA reserves the right to conduct the work itself at any point, to seek reimbursement for the costs associated with the work from Respondents, and/or to seek any other appropriate relief.

XV. FINAL RI/FS, PROPOSED PLAN, PUBLIC COMMENT, RECORD OF DECISION, ADMINISTRATIVE RECORD

62. EPA retains the responsibility for the release to the public of the RI and FS reports. EPA retains responsibility for the preparation and release to the public of the proposed remedial action plan and record of decision in accordance with CERCLA and the NCP.
63. EPA will provide Respondents with the final RI and FS reports (to the extent that Respondents do not already have these reports), proposed remedial action plan, and record of decision.
64. EPA will assemble the administrative record file for selection of the remedial action. Respondents shall submit to EPA documents developed during the course of the RI/FS upon which selection of the remedial action may be based. Respondents shall provide copies of plans, task memoranda including documentation of field modifications, recommendations for further action; quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Respondents shall additionally submit any records of communications between Respondents and state, local or other federal authorities concerning the implementation of this Order or selection of the response action.

XVI. PROJECT COORDINATORS, OTHER PERSONNEL

65. EPA has designated the following individual as its Project Coordinator with respect to the Site:

Mr. M. Gary Miller, Remedial Project Manager
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-AP)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733
(214) 665-8318, FAX (214) 665-6660

Not later than fourteen (14) days after the EFFECTIVE DATE of this Order, Respondents shall select their own Project Coordinator and shall notify EPA in writing of the name, address, qualifications, job title and telephone number of that Project Coordinator. He or she shall have technical expertise sufficient to adequately oversee all aspects of the work contemplated by this Order. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site Work. EPA retains the right to disapprove of any designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within ten (10) calendar days following EPA's disapproval. Respondents' and EPA's Project Coordinators shall be responsible for overseeing the implementation of this Order and shall coordinate communications between EPA and Respondents. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents. EPA and Respondents may change

their respective Project Coordinators. Such a change shall be accomplished by notifying the other parties in writing at least ten (10) days prior to the change where possible, and concurrently with the change or as soon thereafter as possible in the event that advance notification is not possible.

66. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager and On-Scene Coordinator by the NCP. In addition, EPA's Project Coordinator shall have the authority, consistent with the NCP, to halt any work required by this Order, and to take any necessary response action when he/she determines that conditions at the Site may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Order shall not be cause for the stoppage or delay of work.
67. All activities required of Respondents under the terms of this Order shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by applicable law.

XVII. OVERSIGHT

68. During the implementation of the requirements of this Order, Respondents and their contractors and subcontractors shall be available for such conferences and inspections with EPA as EPA may determine are necessary for EPA to adequately oversee the work being carried out and/or to be carried out.
69. Respondents and their employees, agents, contractors, representatives and consultants shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Order.

XVIII. SAMPLING, ACCESS AND DATA AVAILABILITY/ADMISSIBILITY

70. All sampling and analyses performed pursuant to this Order shall conform to EPA direction and approval regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondent shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondent shall follow the following documents as appropriate as guidance for QA/QC and sampling: "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures," OSWER Directive Number 9360.4-01; "Environmental Response Team Standard Operating Procedures," OSWER Directive Numbers 9360.4-02 through 9360.4-08.
71. Upon request by EPA, Respondent shall have such a laboratory analyze samples submitted by EPA for quality-assurance monitoring. Respondent shall provide to EPA

the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondent shall only use laboratories that have a documented quality system which complies with ANSI/ASQC E-4 1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995) and "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditations Program (NELAP) as meeting the quality system requirements.

72. If any area to which access is necessary to perform work under this Order is owned in whole or in part by parties other than Respondents, Respondents shall obtain, or use their best efforts to obtain, access agreements from the present owner(s) within thirty (30) days of the EFFECTIVE DATE of this Order. Such agreements shall provide access for EPA and their contractors and oversight officials, and the Respondents or their authorized representatives, and agreements for such access shall specify that Respondents are not EPA's representatives with respect to liability associated with Site activities. Copies of such agreements shall be provided to EPA upon request prior to Respondents' initiation of field activities. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA of their failure to obtain access. EPA may, in its sole discretion, obtain access for Respondents, perform those tasks or activities with EPA contractors, or terminate this Order in the event that Respondents cannot obtain access agreements. In the event that EPA performs those tasks or activities with EPA contractors and does not terminate this Order, Respondents shall perform all other activities not requiring access to the given property. Respondents additionally shall integrate the results of any such tasks undertaken by EPA into their reports and deliverables.
73. At all reasonable times, EPA and its authorized representatives shall have the authority to enter and freely move about all property at the Site and off-Site areas where work, if any, is being performed, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondents and their contractor pursuant to this Order; reviewing the progress of the Respondents in carrying out the terms of this Order; conducting tests as EPA or its authorized representatives deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to EPA by Respondents. All parties with access to the Site under this paragraph shall comply with all approved health and safety plans.
74. All data, records, photographs and other information created, maintained or received by Respondents or their agents, contractors or consultants in connection with implementation of the work under this Order, including but not limited to contractual documents, quality assurance memoranda, raw data, field notes, laboratory analytical

reports, invoices, receipts, work orders and disposal records, shall, without delay, be made available to EPA on request. EPA shall be permitted to copy all such documents and other items.

75. Upon request by EPA or its designated representatives, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material sampled in connection with the implementation of this Order, or allow EPA or its designated representatives to take such duplicate or split samples.
76. Respondents may assert a claim of business confidentiality under 40 C.F.R. § 2.203, covering part or all of the information submitted to EPA pursuant to the terms of this Order, provided such claim is allowed by section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondents.
77. Notwithstanding any other provision of this Order, EPA hereby retains all of its information gathering, access and inspection authority under CERCLA, the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6991, and any other applicable statute or regulation.

XIX. OTHER APPLICABLE LAWS

78. Respondents shall comply with all laws that are applicable when performing the RI/FS. No local, state, or federal permit shall be required for any portion of the work, including studies, required hereunder which is conducted entirely on-Site, where such work is carried out in compliance with Section 121 of CERCLA; however, Respondents must comply with the substantive requirements that would otherwise be included in such permits. For any work performed pursuant to this Order which is not "on-site", as defined in Sections 300.5 and 300.400(e) of the NCP, Respondents shall obtain all permits necessary under applicable laws and shall submit timely applications and requests for any such permits. This Order is not, nor shall it act as, a permit issued pursuant to any federal or state statute or regulation.

XX. RECORD PRESERVATION

79. All records and documents in Respondents' possession that relate in any way to the Site shall be preserved during the conduct of this Order and for a minimum of ten (10) years after commencement of construction of any remedial action which is selected following the completion of the RI/FS. Respondents shall acquire and retain copies of all documents that relate to the Site and are in the possession of its employees, agents, accountants, contractors, or attorneys. After this 10-year period, Respondents shall notify

EPA at least ninety (90) days before the documents are scheduled to be destroyed. If EPA requests that the documents be saved, Respondents shall, at no cost to EPA, give the documents or copies of the documents to EPA.

XXI. COMMUNITY RELATIONS

80. Respondents shall cooperate with EPA in providing information relating to the work required hereunder to the public. To the extent requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public and make presentations at, and participate in, public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

XXII. DELAY IN PERFORMANCE

81. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondents under the terms of this Section shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondents' obligations to perform all obligations fully under the terms and conditions of this Order.
82. Respondents shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's Project Coordinator within forty-eight (48) hours after Respondents first knew or should have known that a delay might occur. Respondents shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondents shall provide written notification fully describing the nature of the delay, any justification for the delay, any reason why Respondents should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that have been or will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order are not a justification for any delay in performance.

XXIII. ASSURANCE OF ABILITY TO COMPLETE WORK

83. Respondents shall demonstrate their ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within ninety (90) days of the EFFECTIVE DATE of this Order, one of the following; (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondents have sufficient assets available to perform the Work. Respondents shall demonstrate financial assurance in an amount no less than the estimate of cost for the RI/FS for the Site. If Respondents seek to demonstrate ability to complete the RI/FS by means of internal financial information, or by a guarantee of a third party, they shall resubmit such

information annually, on the anniversary of the EFFECTIVE DATE of this Order. If EPA determines that such financial information is inadequate, Respondents shall, within thirty (30) days after receipt of EPA's notice of determination, obtain and present to EPA for approval additional financial assurances consistent with this paragraph.

84. At least seven (7) days prior to commencing any work at the Site pursuant to this Order, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Order. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

XXIV. UNITED STATES NOT LIABLE

85. The United States, by issuance of this Order, assumes no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondents, or their directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order. Neither EPA nor the United States may be deemed to be a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order.

XXV. ENFORCEMENT AND RESERVATIONS

86. EPA reserves the right to bring an action against Respondents under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States in connection with the Site. This reservation shall include but not be limited to past costs, future costs, direct costs, indirect costs, the costs of oversight, as well as accrued interest as provided in Section 107(a) of CERCLA.
87. Notwithstanding any other provision of this Order, at any time during the RI/FS, EPA may perform its own studies, complete the RI/FS (or any portion of the RI/FS) as provided in CERCLA and the NCP, and seek reimbursement from Respondents for its costs, or seek any other appropriate relief.
88. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, or any other applicable law.

89. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.
90. Respondents shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than \$32,500 for each day in which they willfully violate, or fail or refuse to comply with this Order without sufficient cause. This penalty amount is subject to possible further adjustments consistent with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (1996), and the regulations promulgated thereunder, including the Civil Monetary Penalty Inflation Adjustment Rule, 69 Fed. Reg. 7121 (February 13, 2004), 40 C.F.R. Part 19.4. In addition, failure to properly carry out response actions under this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at least equal to, and not more than three times the amount of, any costs incurred by EPA as a result of such failure to take proper action.
91. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site. Nothing herein shall constitute a finding that Respondents are the only responsible parties with respect to the release and threatened release of hazardous substances at or from the Site.
92. If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XXVI. EFFECTIVE DATE AND COMPUTATION OF TIME

93. This amended Order shall be effective on January 31, 2008.

XXVII. OPPORTUNITY TO CONFER

94. Respondents may, within seven (7) days after receipt of this Order, request a conference with EPA to discuss this Order. If requested, the conference shall occur within seven (7) days of Respondents' request for a conference.
95. The purpose and scope of the conference shall be limited to issues involving the implementation of the Work required by this Order and the extent to which Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondents a right

to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondents' request, Respondents may appear in person or by an attorney or other representative.

96. Requests for a conference must be by telephone to Barbara A. Nann, Assistant Regional Counsel, EPA Region VI, telephone (214) 665-2157, followed by written confirmation mailed that day to Ms. Nann and the EPA Project Coordinator at the addresses set forth in Paragraph 54 of this Order.

XXVIII. TERMINATION AND SATISFACTION

97. This Order will be terminated by EPA if Respondents demonstrate in writing and certify to the satisfaction of EPA that all Work and activities required under this Order have been performed fully in accordance with this Order and EPA has approved the certification in writing. Such an approval by EPA, however, shall not relieve Respondents of any remaining obligations under the Order, including those requirements set forth in Section XX regarding record preservation. Respondents' written submission under this paragraph shall include a sworn statement by a responsible official(s) of the Respondents which states the following: "I certify that the information contained in or accompanying this submission is true, accurate and complete."

U.S. ENVIRONMENTAL PROTECTION AGENCY

IT IS SO ORDERED

U.S. Environmental Protection Agency

BY: Samela Phillips, Acting DATE: Dec 21, 2007

Sam Coleman, P.E.
Director
Superfund Division, Region 6